

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0131

**Use Tax
Calendar Year 1997**

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ISSUE

I. Use Tax – Agricultural Equipment Exemption

Authority: 45 IAC 2.2-5-6; 45 IAC 2.2-3-4; I.C. 6-2.5-5-2

The taxpayer protests the assessment of use tax on its tractor.

The taxpayer protests the Department's assessment of use tax on a Ford 4000 Tractor with Loader. The taxpayer contends that the tractor is used in farming and, therefore, qualifies for an exemption.

45 IAC 2.2-5-3 (b) states:

In general purchases of tangible personal property by farmers is taxable. The exemptions provided by this regulation [45 IAC 2.2] apply only to seeds, fertilizers, fungicides, insecticides, and other tangible personal property to be directly used by the farmer in the direct production of food and agricultural commodities. This exemption is limited to "farmers."

45 IAC 2.2-5-3(d)(8) states that transportation of animals, poultry, feed fertilizer, etc. to the farm for use on farming; is taxable.

45 IAC 2.2-5-4(c) does not allow exemption for graders, ditchers, front end loaders, or similar equipment (except equipment to haul animal waste).

45 IAC 2.2-5-4(e) further states:

The fact that an item is purchased for use on the farm does not necessarily make it exempt from sale [sic.] tax. The farmer in the direct production of agricultural products must directly use it. The property in question must have an immediate effect on the article being produced. Property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process that produces agricultural products. The fact that a piece of equipment is convenient, necessary, or essential to farming is insufficient in itself to determine if it is used directly in direct production as required to be exempt.

45 IAC 2.2-5-3(d)(4) exempts implements used in the tilling of land and harvesting of crops therefrom, including tractors and attachments.

45 IAC 2.2-5-3(d)(9) exempts equipment designed to haul waste.

Taxpayer states the tractor is only used in farming, and, although he no longer owns cattle, he was hauling feed to them. The current tractor was a replacement for another tractor destroyed in a fire. Taxpayer states he utilizes a smaller utility tractor to pull grain wagons to the bin and for brush mowing.

Taxpayer refused to provide percentage of use of the tractor stating that the tractor was exempt, that all use is exempt, and that he will not pay percentage of use.

45 IAC 2.2-5-3(d)(7) states:

Tangible personal property purchased by a farmer for use in general farm maintenance of taxable items is taxable.

45 IAC 2.2-5-4(c) taxes all tools including forks, shovels, hoes, welders, power tools, and hand tools; graders, ditchers, front end loaders, or similar equipment (except equipment designed to haul animal waste).

The taxpayer's protest is denied. The taxpayer has refused to provide the department with information to allow the department to reduce or cancel the assessment.

FINDINGS

The taxpayer's protest is denied.